

SENTENCE.

IN THE NAME OF THE QUEEN !

Pronounced in full court-martial with open doors in the presence of Dr. LIE OEN AN, Deputy Prosecutor, and the accused, 15th November 1946.

The Temporary Court-martial at PONTIANAK in the case of the Prosecutor, *ratione officii*, against:

YAMADA, Takeo,
aged 43, chief of police at SINGKAWANG, now detained
in the Military Prison at PONTIANAK.

The secretary:
s/J.A. LAMERS.

The President:
s/C. van ESSEL.

In view of the order dated 18th October 1946 issued by the Prosecutor attached to the Temporary Court-martial at PONTIANAK, committing the case for trial by the said Court-martial.

In view of the summons and writ dated 24th October 1946 whereby the writ and the charge contained therein were served on the accused and he summoned to appear at 8 a.m. on Thursday, 7th November 1946 before the Temporary Court-martial holding session that day.

The accused having been heard.

In view of the documents in the case and insofar as use was made of them shown to and seen by the accused.

In view of the demand by the Prosecutor read out and then handed to the Temporary Court-martial, to the effect that the Temporary Court-martial declare the accused guilty of the war crimes:

indiscriminate mass arrests, and
torturing, at anyrate ill-treatment of civilians,

and on that account sentence him to 15 years imprisonment.

CONSIDERING that the accused having received permission thereto by the President of the Court-martial was supported at the sitting by counsel chosen by himself, Commander MITSUI USAO, Japanese Navy.

In view of that which was put forward in his defence by the accused and his counsel.

CONSIDERING that the accused is charged;
that he,

being a Japanese subject, from about the middle of July 1943 till the end of the war between the Netherlands and Japan, in the police-station or elsewhere in SINGKAWANG, capital of the department, western district of BORNEO,

- a. was guilty of the war crime: "indiscriminate mass arrests", by in October and December 1943 and January 1944 in collaboration with the TOKETAI (Special Japanese Naval Police) and the soldiers belonging to the garrison in SINGKAWANG and neighbourhood, arresting respectively 30, 40 and 45 persons suspected of having plotted a conspiracy against the Japanese rule although he knew that this suspicion was based on very flimsy grounds and was not well founded;
- b. as head of the police in that place, charged with the investigation of criminal cases or having these investigated by his subordinates, intentionally and an indefinite number of times hit or pummeled the

body or head of Chinese and Indonesians either suspected of having committed a punishable act or being heard by him as witnesses, using a "bullepees" (a bull's sknew), cane, stick, piece of wood or his fist, and by thus doing exercised compulsion in order to force a confession or statement from them, the persons in question having suffered pain by these blows and pummelings applied to them by the accused:

which acts produce a violation of the laws and customs of war and are described and made punishable by art.1 Statute Book 1946 No.44.

CONSIDERING that at the sitting the accused denied being guilty of the charge brought against him, advancing that what was stated by him in the preliminary investigation was incorrectly reproduced in the statements taken down.

CONSIDERING that the accused could not make it clear to the Court-martial why the contents of his statements have been incorrectly reproduced;
that the Court-martial has no reason of any sort to doubt the skill of the interpreters employed in the obtaining of the said statements;
that the Court-martial considers that the contents of these statements were correctly reproduced.

CONSIDERING that in the preliminary investigation the accused admitted among other things having given orders to the policemen under him to affect the arrest of about 115 persons in connection with the discovery of the so-called first plot;

that the Court-martial considers it a well-known fact that arrests did take place at SINGKAWANG in connection with the so-called first plot.

CONSIDERING that in the preliminary investigation the accused admitted having ill-treated arrestees and having also known that some of the policemen under his orders, to wit, BOJONG bin RAGIA, BAGIMAN and KASIDIK, ill-treated arrestees without the accused having intervened.

CONSIDERING that witnesses TJIN NAM THIN, POEK KAP LOEK and LIM TEN KOEI declared on oath that they were ill-treated by the accused;

that witness BOJONG bin RAGIA declared on oath that as a general rule the accused gave orders to force a confession from arrestees who did not wish to admit facts, by applying ill-treatment to them;

that witness BOJONG bin RAGIA also stated on oath that the accused sometimes turned up to watch when arrestees were being ill-treated.

CONSIDERING that the acts committed by accused as a subject of an enemy power, here Japan, undoubtedly constitute a violation of the laws and customs of war, these consisting of ill-treating civilians and causing them to be ill-treated, as well as by having mass arrests carried out.

CONSIDERING therefore that through what has been weighed above as well as by the statements on oath made by the witnesses TJIN NAM THIN, POEK KAP LOEK, LIM TEN KOEI and BOJONG bin RAGIA, which statements were read out to and seen by the accused, all this taken in connection one with another and the information produced thereby, it has been legally and convincingly proved that accused was guilty of that with which he has been charged, producing the war crimes to be further qualified in the dictum, and provided for and made punishable by art.4 Statute Book 1946 No.45 in conjunction with art.1 Statute Book No.44, wherefore he deserves to be punished.

CONSIDERING that the acts committed by the accused are so inter-connected that they must be considered as forming one continuous action,

CONSIDERING with regard to the punishment:

that the Court-martial has come to the opinion that by reason of his function as chief of police in SINGKAWANG the accused knew or at anyrate could have known that there was no reason to accept the existence of a plot;
that in spite of this the accused gave his police staff orders to

carry out arrests-

carry out arrests in connection with the plot without the accused for his part having pointed out to the person giving him the order that as head of the police he knew nothing about there being a plot at SINGKAWANG.

CONSIDERING that the accused did not refrain from ill-treating his arrestees in order to force an admission from them;
that accused beat LIM TEN KOEI with a plaited rubber stick without there being any reason for such a beating even by Japanese ideas;
that accused gave orders to the police personnel under his command to ill-treat arrestees if they would not confess.

CONSIDERING that it is the opinion of the Court-martial that the accused behaved in a very inhuman way and that it finds no reasons present for clemency to be shown as pleaded by counsel, because accused knew or could have known that as a result of the numerous arrests carried out by him many innocent persons died.

CONSIDERING that the Court-martial is of the opinion that accused deserves to be severely punished.

In view of the articles of law quoted above and also of art. 64 of the Penal Code as well as par^s 23, 34 and 35 of Statute Book 1946 No. 47.

ADMINISTERING THE LAW:

Declares the accused YAMADA Takeo guilty of the war crimes:

1. indiscriminate mass arrests;
2. ill-treatment of civilians; all several times but in one continuous action,

Sentences him on this account to FIFTEEN YEARS' imprisonment.

Sentence passed on Thursday, 7th November 1946 by:

Capt. Dr. C. van Essel, Inf. Res.	President.
1st Lt. J. H. van Drent, Inf.	Members
2nd Lt. Dr. F. M. SINNECKER, Inf. Res.	

in the presence of:	
2nd Lt. Dr. J. A. LAMERS, Inf. Res.	Secretary.

The Members:	The President:
s/J. H. van Drent	s/C. van Essel.
F. M. SINNECKER.	

Noted by me,
The Secretary:
s/J. A. Lamers.

Fiat of Execution:

Fiat of execution granted this day, 14th November 1946, by me, Dr. J. van der ZWAAL.

The Commanding Officer,
s/J. van der Zwaal.

Pronounced at the public sitting of the Temporary Court-martial on Friday, 15th November 1946, by:
Capt. Dr. C. van Essel, Inf. Res., President in the presence of 1st Lt. J. H. van Drent, Inf. and 2nd Lt. Dr. F. M. Sinnecker, Inf. Res., members, Dr. LIE OEN AN, deputy prosecutor, 2nd Lt. Dr. J. A. Lamers, secretary, as well as in the presence of the accused and his counsel, Commander MITSUI USAO, Japanese Navy.

The Members:	The President:
s/J. H. van Drent	s/C. van Essel.
F. M. Sinnecker.	

Noted by me,
The Secretary,
s/J. A. Lamers.